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12/21/00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Thomas E. Loftus)

Serial No.: 09/541,162)

Filed: 03/31/00)

For: Retrofit chain sickle cutter)

Examiner: R. Pezzuto

Group Art Unit: 3671

RESPONSE TO OFFICE ACTION

RECEIVED

Assistant Commissioner for Patents
Washington, D.C. 20231

DEC 27 2000

TO 3600 MAIL ROOM

Sir:

Reconsideration of the rejection set forth in the Office Action of August 21, 2000 is respectfully requested.

Claims 1-23 were rejected as being based upon a defective declaration under 35 U.S.C. § 251. The Office Action sets forth two alleged defects: (1) the declaration failed "to identify at least one error", and (2) the declaration failed to contain a statement that all errors "arose without any deceptive intention on the part of the applicant." Applicant has enclosed another copy of the declaration submitted with this reissue application with relevant language highlighted, and respectfully submits that the declaration is appropriate.

In particular, the declaration, at the bottom of page one, describes at least one error in that the patentee claimed "more or less than he had a right to claim in the patent by including, interalia [sic], a knife member that requires the knife member to have a substantially triangular portion with two sharp cutting edges." Claim 1 of the issued patent described such a knife member shaped in the form of "substantially triangular portion with two sharp cutting edges," whereas the new

claims submitted with the reissue application omit such a limitation. The Declaration thus describes at least one error upon which the reissue is based.

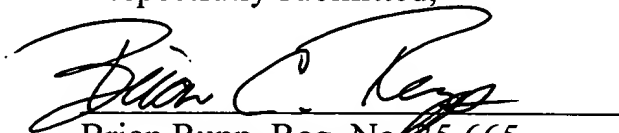
Also at the bottom of page 1 of the declaration, the declaration states that all "errors corrected in this reissue application arose without any deceptive intention on the part of the applicant." The declaration thus also includes this required language.

In view of the foregoing, applicant respectfully submits that the declaration complies with all requirements and requests withdrawal of the rejection of Claims 1-23 based on a defective declaration under 35 U.S.C § 251.

The Office Action also states that the reissue application was filed "without the required offer to surrender the original patent." Applicant has enclosed another copy of the offer to surrender filed with the original reissue application.

Applicant respectfully submits that the Declaration complies with all requirements and that this application is in condition for allowance. Prior to filing this response, applicant's representative attempted (but unsuccessfully) to contact the Examiner by telephone in order to discuss the adequacy of the Declaration. If the Examiner determines that there are any outstanding matters, Applicant respectfully requests that the Examiner call the undersigned attorney to discuss such matters.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Brian C. Rupp", is written over a horizontal line.

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Date: December 18, 2000